

House File 73 - Introduced

HOUSE FILE 73
BY WINDSCHITL

A BILL FOR

1 An Act relating to optional permits to acquire firearms and to
2 permits to carry weapons and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 724.11A, Code 2013, is amended to read
2 as follows:

3 **724.11A Recognition.**

4 A valid permit or license issued by another state to any
5 nonresident of this state shall be considered to be a valid
6 permit or license to carry weapons issued pursuant to this
7 chapter, except that such permit or license shall not be
8 considered to be a substitute for ~~an annual~~ a permit to acquire
9 ~~pistols or revolvers~~ firearms issued pursuant to section
10 724.15.

11 Sec. 2. Section 724.15, Code 2013, is amended by striking
12 the section and inserting in lieu thereof the following:

13 **724.15 Optional permit to acquire firearms.**

14 1. It is the purpose of this section to provide for a permit
15 to acquire firearms that will satisfy the requirements of 18
16 U.S.C. § 922(t)(3) to allow the holder of such a permit to
17 acquire firearms from a federally licensed firearms dealer. A
18 person is not required to obtain a permit to acquire firearms
19 under this section if the person possesses a valid permit to
20 carry weapons issued in accordance with this chapter or if the
21 person has otherwise completed a satisfactory national instant
22 criminal background check required pursuant to 18 U.S.C. §
23 922(t).

24 2. Any person who desires to acquire ownership of firearms
25 may obtain a permit to acquire firearms pursuant to this
26 section. However, a permit to acquire firearms shall not be
27 issued to a person who is subject to any of the following:

28 a. Is under twenty-one years of age.

29 b. Is prohibited by section 724.26 or federal law from
30 possessing, shipping, transporting, or receiving a firearm.

31 c. Is prohibited by court order from possessing, shipping,
32 transporting, or receiving a firearm.

33 3. A permit to acquire firearms shall authorize the permit
34 holder to acquire one or more firearms, without limitation,
35 from a federally licensed firearms dealer during the period the

1 permit remains valid pursuant to section 724.20.

2 4. An issuing officer who finds that a person issued
3 a permit to acquire firearms under this chapter has been
4 arrested for a disqualifying offense or who is the subject of
5 proceedings that could lead to the person's ineligibility for
6 such permit may immediately suspend such permit. An issuing
7 officer proceeding under this subsection shall immediately
8 notify the permit holder of the suspension by personal service
9 or certified mail on a form prescribed and published by the
10 commissioner of public safety and the suspension shall become
11 effective upon the permit holder's receipt of such notice. If
12 the suspension is based on an arrest or a proceeding that does
13 not result in a disqualifying conviction or finding against
14 the permit holder, the issuing officer shall immediately
15 reinstate the permit upon receipt of proof of the matter's
16 final disposition. If the arrest leads to a disqualifying
17 conviction or the proceedings to a disqualifying finding, the
18 issuing officer shall revoke the permit. The issuing officer
19 may also revoke the permit of a person whom the issuing officer
20 later finds was not qualified for such a permit at the time of
21 issuance or who the officer finds provided materially false
22 information on the permit application. A person aggrieved by a
23 suspension or revocation under this subsection may seek review
24 of the decision pursuant to section 724.21A.

25 Sec. 3. Section 724.16, Code 2013, is amended by striking
26 the section and inserting in lieu thereof the following:

27 **724.16 Prohibited transfers of firearms.**

28 A person who transfers ownership of a firearm to a person
29 that the transferor knows is prohibited by section 724.26 from
30 possessing, shipping, transporting, or receiving a firearm
31 commits a class "D" felony.

32 Sec. 4. Section 724.17, Code 2013, is amended to read as
33 follows:

34 **724.17 Application for ~~annual~~ permit to acquire firearms —**
35 **criminal history check required.**

1 1. The application for ~~an annual~~ a permit to acquire pistols
2 ~~or revolvers~~ firearms may be made to the sheriff of the county
3 of the applicant's residence and shall be on a form prescribed
4 and published by the commissioner of public safety.

5 a. If an applicant is a United States citizen, the
6 application shall require only the full name of the applicant,
7 the driver's license or nonoperator's identification card
8 number of the applicant, the residence of the applicant, and
9 the date and place of birth of the applicant.

10 b. If the applicant is not a United States citizen, the
11 application shall, in addition to the information specified in
12 paragraph "a", require the applicant's country of citizenship,
13 any alien or admission number issued by the United States
14 immigration and customs enforcement or any successor agency,
15 and, if applicable, the basis for any exception claimed
16 pursuant to 18 U.S.C. § 922(y).

17 c. The applicant shall also display an identification card
18 that bears a distinguishing number assigned to the cardholder,
19 the full name, date of birth, sex, residence address, and brief
20 description and colored photograph of the cardholder, or other
21 identification as specified by rule of the department of public
22 safety.

23 2. The sheriff shall conduct a criminal history check
24 concerning each applicant by obtaining criminal history data
25 from the department of public safety which shall include an
26 inquiry of the national instant criminal background system
27 maintained by the federal bureau of investigation or any
28 successor agency and an immigration alien query through a
29 database maintained by the United States immigration and
30 customs enforcement or any successor agency if the applicant
31 is not a United States citizen.

32 3. A person who makes what the person knows to be a false
33 statement of material fact on an application submitted under
34 this section or who submits what the person knows to be any
35 materially falsified or forged documentation in connection with

1 such an application commits a class "D" felony.

2 Sec. 5. Section 724.18, Code 2013, is amended by striking
3 the section and inserting in lieu thereof the following:

4 **724.18 Procedure for making application for permit to acquire**
5 **firearms.**

6 1. A person may personally request the sheriff to mail an
7 application for a permit to acquire firearms, and the sheriff
8 shall immediately forward such application to the person. The
9 person shall personally deliver such a completed application
10 to the sheriff who, upon successful completion of the criminal
11 history check and immigration alien query, if applicable,
12 required pursuant to section 724.17, shall note the period of
13 validity on the application and immediately issue the permit
14 to the applicant.

15 2. For the purposes of this section, the date of application
16 shall be the date on which the sheriff received the completed
17 application.

18 Sec. 6. Section 724.19, Code 2013, is amended to read as
19 follows:

20 **724.19 Issuance of ~~annual~~ permit to acquire firearms.**

21 The ~~annual~~ permit to acquire ~~pistols or revolvers~~ firearms
22 shall be issued to the applicant immediately upon completion
23 of the application unless the applicant is disqualified under
24 the provisions of section 724.15 ~~and~~. The permit shall be on a
25 form have a uniform appearance, size, and content prescribed
26 and published by the commissioner of public safety. The permit
27 shall contain the name of the permittee, the residence of the
28 permittee, and the effective date of the permit, but shall not
29 contain the permittee's social security number. The permit may
30 be laminated by the issuing officer or the permit holder. Such
31 a permit shall not be issued for a particular weapon and shall
32 not contain information about a particular weapon including the
33 make, model, or serial number of the weapon, or any ammunition
34 used in that weapon.

35 Sec. 7. Section 724.20, Code 2013, is amended to read as

1 follows:

2 **724.20 Validity of annual permit to acquire ~~pistols or~~**
3 **~~revolvers~~ firearms.**

4 The permit shall be valid throughout the state and shall be
5 ~~valid three days after the date of application and shall be~~
6 ~~invalid one year~~ five years after the date of application.

7 Sec. 8. Section 724.21, Code 2013, is amended to read as
8 follows:

9 **724.21 Giving false information when acquiring ~~weapon~~**
10 **firearms.**

11 A person who gives a false name or presents false
12 identification, or otherwise knowingly gives false material
13 information to one from whom the person seeks to acquire a
14 ~~pistol or revolver~~ firearm, commits a class "D" felony.

15 Sec. 9. Section 724.21A, subsections 1, 5, and 7, Code 2013,
16 are amended to read as follows:

17 1. In any case where the sheriff or the commissioner of
18 public safety denies an application for or suspends or revokes
19 a permit to carry weapons or ~~an annual~~ a permit to acquire
20 ~~pistols or revolvers~~ firearms, the sheriff or commissioner
21 shall provide a written statement of the reasons for the
22 denial, suspension, or revocation and the applicant or permit
23 holder shall have the right to appeal the denial, suspension,
24 or revocation to an administrative law judge in the department
25 of inspections and appeals within thirty days of receiving
26 written notice of the denial, suspension, or revocation.

27 5. The standard of review under this section shall be
28 ~~clear and convincing evidence~~ that the issuing officer's
29 written statement of the reasons for the denial, suspension, or
30 revocation constituted ~~probable cause to deny an application~~
31 ~~or to suspend or revoke a permit~~ clear and convincing evidence
32 that, as of the date of the adverse decision, the applicant
33 or permit holder, under the applicable standards set forth in
34 this chapter, was ineligible for a permit to carry weapons or a
35 permit to acquire firearms, is subject to prosecution or any

1 other proceeding that could result in the applicant or permit
2 holder becoming ineligible for a permit to carry weapons or
3 a permit to acquire firearms, or provided materially false
4 information or documentation in conjunction with either permit
5 application.

6 7. In any case where the issuing officer denies an
7 application for, or suspends or revokes a permit to carry
8 weapons or ~~an annual~~ a permit to acquire ~~pistols or revolvers~~
9 firearms solely because of an adverse determination by
10 the national instant criminal background check system, the
11 applicant or permit holder shall not seek relief under this
12 section but may pursue relief of the national instant criminal
13 background check system determination pursuant to Pub. L. No.
14 103-159, sections 103(f) and (g) and 104 and 28 C.F.R. § 25.10,
15 or other applicable law. The outcome of such proceedings shall
16 be binding on the issuing officer.

17 Sec. 10. Section 724.27, subsection 1, unnumbered paragraph
18 1, Code 2013, is amended to read as follows:

19 The provisions of section 724.8, section 724.15, subsection
20 ~~±~~ 2, and section 724.26 shall not apply to a person who is
21 eligible to have the person's civil rights regarding firearms
22 restored under section 914.7 if any of the following occur:

23 EXPLANATION

24 This bill relates to optional permits to acquire firearms
25 and to permits to carry weapons and provides a penalty.

26 PERMITS TO ACQUIRE FIREARMS. Current law provides that
27 any person who intends to purchase a pistol or revolver is
28 required to first obtain an annual permit to acquire pistols
29 or revolvers unless the person is otherwise exempt from
30 obtaining such a permit. The bill eliminates this type of
31 mandatory permit and provides instead for an optional permit
32 to acquire firearms in order to satisfy the requirements of
33 federal law allowing the holder of such a permit to acquire
34 firearms from a federally licensed firearms dealer. A person
35 is not required to obtain a permit to acquire firearms to

1 purchase firearms from a federally licensed firearms dealer if
2 the person possesses a valid permit to carry weapons issued
3 in accordance with Iowa law or if the person has otherwise
4 completed a satisfactory national instant criminal background
5 check required by federal law to purchase firearms from a
6 federally licensed firearms dealer.

7 Under the bill, a person who applies for a permit to acquire
8 firearms is not eligible for the permit if the person is less
9 than 21 years of age or is prohibited by Code section 724.26
10 (felon in possession of a firearm), federal law, or court
11 order from possessing, shipping, transporting, or receiving a
12 firearm.

13 The bill provides that an application for a permit to
14 acquire firearms is made to the sheriff of the county of the
15 applicant's residence. An applicant who is a United States
16 citizen is only required to provide certain basic identifying
17 documentation. An applicant who is not a United States
18 citizen must provide additional information and is subject to
19 an immigration alien query through a database maintained by
20 the United States immigration and customs enforcement. All
21 applicants are subject to a criminal history background check.

22 The permit to acquire firearms is required to be issued to
23 the applicant immediately upon completion of the application
24 unless the applicant is disqualified. The permit shall have a
25 uniform appearance, size, and content, but shall not contain
26 the permittee's social security number. The permit may be
27 laminated by the issuing officer or the permit holder. Such
28 permits shall not be issued for a particular weapon and shall
29 not contain information about a particular weapon including the
30 make, model, or serial number of the weapon, or any ammunition
31 used in that weapon.

32 The bill provides that the permit to acquire firearms may be
33 suspended or revoked by the issuing officer and the aggrieved
34 permit holder may file an appeal with an administrative law
35 judge.

1 The bill provides that a person who makes what the
2 person knows to be a false statement of material fact on an
3 application for a permit to acquire firearms or who submits
4 what the person knows to be any materially falsified or forged
5 documentation in connection with such an application commits
6 a class "D" felony. A person who transfers ownership of a
7 firearm to a person that the transferor knows is prohibited
8 under Code section 724.26 (felon in possession of a firearm)
9 from possessing, shipping, transporting, or receiving a firearm
10 commits a class "D" felony.

11 The bill makes a conforming change to Code section 724.27
12 relating to the restoration of firearms rights.

13 DENIAL, SUSPENSION, OR REVOCATION—PERMIT TO CARRY WEAPONS
14 AND PERMIT TO ACQUIRE FIREARMS. The bill provides that, in a
15 case where an issuing officer denies, suspends, or revokes a
16 permit to carry weapons or a permit to acquire firearms, the
17 clear and convincing evidence standard of review must show
18 that, as of the date of the adverse decision, the applicant or
19 permit holder was ineligible for a permit to carry weapons or a
20 permit to acquire firearms, is subject to prosecution or any
21 other proceeding that could result in the applicant or permit
22 holder becoming ineligible for a permit to carry weapons or
23 a permit to acquire firearms, or provided materially false
24 information or documentation in conjunction with either permit
25 application.